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10 Susan Swinton, Dawn E. Struck, and William J.  
11 Palmer  
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13 UNITED STATES DISTRICT COURT

14 EASTERN DISTRICT OF CALIFORNIA  
15

16 CHRIS LUSBY TAYLOR, NANCY A.  
17 PEPPE-GONSALVES, GARY  
18 KESSELMAN, SUSAN SWINTON, DAWN E.  
19 STRUCK, and WILLIAM J. PALMER  
20

21 As Taxpayers, and on behalf of themselves and  
22 other persons similarly situated,  
23

24 Plaintiff,  
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26 vs.  
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28 JOHN CHIANG, individually and in his  
capacity as STATE CONTROLLER OF THE  
STATE OF CALIFORNIA; STEVE WESTLY,  
individually  
29

30 Defendants.  
31

Case No.: CIV. –S-01-2407 WBS

**ORDER**

Hearing:

Date: May 7, 2007

Time: 1:30 p.m.

Courtroom: 5

(The Honorable William B. Shubb)

**ORDER**

32 This matter came before the Court on Plaintiffs' Motion to Expedite Hearing on  
33 Motion for Temporary Restraining Order. Upon Plaintiffs' Motion and supporting  
34 documents the Court finds as follows:  
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2           1.       Plaintiffs filed this action for injunctive and other equitable relief on  
3 December 31, 2001.

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5           2.       On August 16, 2005, this court filed its order denying plaintiffs' motion  
6 for a preliminary injunction.

7           3.       On September 2, 2005, plaintiffs appealed this court's order of August  
8 16, 2005 to the United States Court of Appeals for the Ninth Circuit.

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10          4.       On July 31, 2006, the Court of Appeals heard oral arguments, and the  
11 appeal was submitted for decision.

12          5.       On April 30, 2007, the Court of Appeals issued its unpublished  
13 memorandum decision reversing this court's order and finding this court erred in  
14 refusing to issue the preliminary injunction requested by plaintiffs.

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16          6.       On April 30, 2007, as soon as word of the Court of Appeals' decision was  
17 received, this court placed the matter on calendar for May 21, 2007.

18          7.       The following day, May 1, 2007, plaintiffs filed a motion for a  
19 Temporary Restraining Order and Preliminary Injunction; and three days later, on May  
20 4, 2007, moved to expedite the May 21, 2007 hearing due to a claimed irreparable loss  
21 of \$3.8 million per day while the motion goes unresolved.

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23          8.       Apparently, the Court of Appeals could take more than 19 months,  
24 including nine months after the matter was argued and submitted, to decide whether  
25 plaintiffs are suffering irreparable injury, but this court cannot wait another two weeks,  
26 to give the other side time to respond, before hearing plaintiffs' request for a temporary  
27 restraining order.  
28

1 Upon the basis of the foregoing, the Court hereby ORDERS:

2 1. That a hearing for Motion for Temporary Restraining Order is set for  
3 **May 7, 2007 at 1:30 p.m.**

4  
5 2. That Defendant's opposition to such motion shall be filed on or before  
6 **11:00 a.m. on May 7, 2007.**

7 IT IS SO ORDERED at 4:00 o'clock p.m. this 4th day of May, 2007.

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10 WILLIAM B. SHUBB  
11 UNITED STATES DISTRICT JUDGE

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